



THE CITY OF NEW YORK
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March 29, 2016

VIA ECF AND FACSIMILE

Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007
Fax: (212) 805-7986

Re: Jason Torres v. City of New York, et al.,
15 Civ. 2864 (PGG)

Your Honor:

I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, representing defendants in the above-referenced matter. Defendants write on behalf of the parties to respectfully request an extension of the fact discovery deadline, from April 14, 2016, until May 31, 2016.¹ This is the parties' third request for an extension of discovery in this case and, as explained below, there are several reasons that necessitate this request.

At this time, the parties still need to conduct four non-party depositions, including the deposition of a non-party police officer who recently returned to active duty from medical leave. At this time, and based on counsel's scheduling availability, counsel anticipate conducting the depositions of the non-party officer and another non-party in late April. With respect to the two remaining non-party witnesses, who were disclosed by plaintiff as witnesses to the incident and include plaintiff's brother and sister-in-law, defendants are awaiting their current addresses

¹ If Your Honor is inclined to grant the parties' request for an extension of discovery, the parties also respectfully request an adjournment of the conference that is currently scheduled for April 21, 2016 at 10:15 a.m. until a date after the requested new deadline for fact discovery.

from plaintiff, as the addresses previously provided by plaintiff for those witnesses are invalid. In fact, in late February, defendants attempted to serve subpoenas on plaintiff's brother and sister-in-law for their depositions; however, those attempts failed as the addresses for those witnesses provided by plaintiff's counsel were invalid. At this time, defendants are waiting to be provided the proper service addresses from plaintiff's counsel, and thereafter intend to immediately issue subpoenas for their depositions and depose them. Defendants note, however, that, to the extent current addresses for these non-party witnesses are not provided during the discovery period, with adequate time to issue subpoenas and depose them, defendants intend to make a motion to preclude these witnesses from testifying at trial. Plaintiff would object to such a request, in part, because defendants have made no attempt to locate the current address of these individuals.

For the reasons set forth above, the parties respectfully request an extension of fact discovery from, April 14, 2016 until May 31, 2016, so that defendants can be provided the current service addresses from plaintiff's counsel for the two non-party witnesses identified above and to complete the remaining non-party depositions.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Peter J. Fogarty
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cc: VIA ECF
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